IN THE HIGH COURT OF U TTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 688 of 2005

1. Arun Narang s/o Lekh Raja Narang
R/o D-1/D/2near Neelkhant Temple
Adarsh Colony
Rudrapur,
District Udham Singh Nagar

2 Amit Khatri s/o Shri Jagnnath Khatri
R/o Village Bhura Rani, Rudrapur,
District Udham Singh Nagar applicants

Versus

1. State of Uttaranchal

2 Vikram Jeet singh,
s/o Shri Har Dayal Singh
r/o Bagvara
Police Station Rudrapur,
District Udham Singh Nagar respondents.

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr. P.C has been filed by the petitioner for quashing the impugned order dated 21.2.2005,28.7.2005 and 18.8.2005 passed by the IInd Additional Judicial Magistrate,Rudrapur,District Udham Singh Nagar in Criminal case No. 39 of 2004 Vikram Jeet vs Arun Narang and others.

Brief facts giving rise to the petition are that a First Information Report was lodged against the petitioners under Section 147, 308, IPC.

The Investigating officer submitted a final report before the court of Judicial Magistrate on 28.7.1998. When the matter came up before the court concerned, the trial court after perusal of the papers came to the conclusion that this was a case under Section 147, 326

IPC. The court accordingly vide order dated 21.2.2005 issued process against the petitioners under Section 147,326, IPC.

The petitioners did not avail any alternative remedy against such order dated 21.2. 2005 and in spite of availing alternative remedy, they absconded and did not appear before the court, hence the court had no option except to issue the process under Section 82 and 83 Cr. P.C. against the petitioners.

The court accordingly on 28.7.2005 and 18.8.2005 issued non bailable warrants and procees under Section 82 and 83 of Cr. PC against the petitioners.

Feeling aggrieved from the aforesaid orders tthe petitioners have approached this court.

Heard Sh. Vipul Sharma, learned counsel for the petitioners, learned AGA and perused the record.

I do not find any abuse of process of the court or any flagrant injustice caused to the petitioners, The contention raised by the learned counsel for the petitioner relates to the factual aspect of the matter which can be assessed and examined by the court concerned. The Petition lacks merit and is liable to be dismissed.

Accordingly the petition is dismissed.

However, if the petitioners appears before the court concerned for grant of their bail, the court concerned shall decide their bail application expeditiously.

(B.C. Kandpal, J.)

7.10.2005
nbj